

Notice of Allowability

Application No.

10/679,217

Examiner

Rip A. Lee

Applicant(s)

MANNION ET AL

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 28, 2005.
2. ☒ The allowed claim(s) is/are 1, 2, 4, 5, 11-13, 16, 17 and 21-23.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with John E. Vick on April 7, 2005.

Page 3

Claim 1, line 2 replace "of a" which appears before the word "group"
with "selected from the"

Claim 2, line 5 delete "small size"

Page 4

Claim 2, line 10 replace "of a" with "selected from the"

Claim 4, line 1 replace "2" with "1"

Claim 5, line 1 replace "3" with "1"

Page 5

Claim 11, line 1 insert "additive" between "The" and "formulation"

Claim 16, line 1 delete "small"

Claim 16, line 2 delete "size"

Claim 17, line 1 delete "small"

Claim 17, line 2 delete "size"

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Claim 21, line 2 delete “about”

Claim 22, line 2 delete “small size”

Claim 23, line 1 replace “21” with “2”

Allowable Subject Matter

The following is an examiner's statement of reasons for allowance: Claims 1, 2, 4, 5, 11-13, 16, 17, and 21-23 are allowed over the closest reference, U.S. Patent No. 6,465,551 to Zhao *et al.*

The present invention is drawn to an additive formulation comprising: (a) at least one nucleating compound conforming to the structure of formula (I) wherein said nucleating compound is provided in the form of particles, said particles having a D95 size range of less than or equal to 94 micrometers at a mean volume diameter of about 16 and (b) an anticaking agent comprising one or more selected from the group consisting of silica gel, talc, hihydrotalcite, and metal carboxylates, wherein said anticaking agent is provided in a weight ratio of anticaking agent to nucleating compound of from about 10:90 to about 30:70. Another aspect of the invention is a thermoplastic article comprising the additive formulation.

Zhao *et al.* teaches polypropylene compositions containing disodium bicyclo[2.2.1]heptane dicarboxylate as nucleating agent. This compound is exactly the same compound disclosed in the present invention. Pellets are made from the inventive compositions, although any form may be exhibited. The reference does not teach or fairly suggest use of anticaking agent. Therefore, the subject matter of the present claims is not anticipated by Zhao *et al.*, and one of ordinary skill in the art would not have found it obvious to arrive at the claimed invention based on the teachings of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rip A. Lee whose telephone number is (571)272-1104. The examiner can be reached on Monday through Friday from 9:00 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached at (571)272-1114. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <<http://pair-direct.uspto.gov>>. Should you have questions on the access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

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April 7, 2005



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